

## REMARKS

By way of introduction, the claimed invention, as set forth in independent claims 1 and 34, enables the grand total of monthly flat subscription fees paid by a plurality of users for the right to use various applications from a plurality of providers (i.e., the “grand total of usage fees” recited in claims 1 and 34) to be shared among these providers in a weighted manner according to the amount to which each provider is entitled. Each provider’s share of the “grand total of usage fees” is determined on the basis of a weighted function of factors—that is, the detected and stored “usage status” recited in claims 1 and 34—which may include time-based usage of each application program, the number of downloads of each application program, the evaluation of users, and the like. The recited “usage status” serves as an indicia of the relative strength/popularity of the particular application program.

### Claim Rejections – 35 U.S.C. § 103

The rejection of claims 1-39 under 35 U.S.C. § 103(a) as being unpatentable over *Korpela* in view of *Tobita et al.* is respectfully traversed. The newly applied combination of *Korpela* and *Tobita et al.* still does not teach or suggest each and every element recited in independent claims 1 and 34. At a minimum, this combination of references does not teach or suggest calculating and outputting a license fee “on the basis of a grand total of usage fees grasped by the payment-status management table and the usage status stored in the usage status management table,” as required by independent claim 1, nor does it teach or suggest “calculating a license fee ... on the basis of the stored grand total of usage fees and the stored usage status,” as required by independent claim 34.

*Korpela* describes methods and systems for determining charging information in mobile communication systems. In contrast to the claimed invention, charge calculations as described in *Korpela* are based solely on the transferred amount of payload data (e.g., col. 1, lines 34-37) and/or call duration (e.g., col. 2, lines 35-38). There is no teaching or suggestion of a stored “grand total of usage fees,” such as that obtained from a plurality of different users, because the charges incurred by a given user according to the systems described in *Korpela* are paid directly to the provider by

the user who incurred the charge. Moreover, there is no teaching of suggestion in *Korpela* of calculating license fees on the basis of a “grand total of usage fees” and “usage status stored in the usage status management table,” as required by independent claim 1, nor of calculating license fees on the basis of a “stored grand total of usage fees” and “stored usage status,” as required by independent claim 34.

The newly cited *Tobita et al.* reference, which was cited by the Examiner for teaching that copyright license fees may be charged to the user of an image on a mobile phone waiting screen (e.g., an image such as the car shown in FIG. 5), fails to remedy the deficiencies of *Korpela*. *Tobita et al.* describes a service for delivering an image wherein if the image is copyrighted, a copyright fee may be paid by the user to the copyright holder. Contrary to the Examiner’s statement (e.g., pages 3 and 12 of the Office Action), *Tobita et al.* describes only images—not applications, as recited in independent claims 1 and 34. Thus, *Tobita et al.* contains no teaching or suggestion—nor, indeed, would there be a reason for *Tobita et al.* to teach or suggest—that the “usage status” of an image be detected, stored and used as the basis for a license fee calculation together with a stored “grand total of usage fees”. Monitoring and storage of the usage status of the image would be unnecessary because once a requisite copyright fee has been paid and the image has been downloaded to a user’s mobile phone, the image remains available to the user and the financial transaction between the user and provider is complete. Moreover, the copyright fee is paid directly from the user to the provider and *Tobita et al.* contains no teaching or suggestion of distributing a stored “grand total of usage fees” collected from a plurality of users, much less of distributing this total fee in a weighted manner.


For at least the reasons set forth above, Applicant respectfully submits that the claimed invention is neither anticipated by nor would have been obvious in view of *Korpela* and *Tobita et al.*, individually or in combination. Accordingly, withdrawal of this ground of rejection is respectfully requested.

### **Conclusion:**

In view of the Remarks set forth above, Applicant respectfully submits that the claimed invention is in condition for allowance. Early notification to such effect is earnestly solicited.

If for any reason the Examiner feels that the above Remarks do not put the claims in condition to be allowed, and that a further interview would be helpful, it is respectfully requested that the Examiner contact the undersigned agent directly at (312)-321-4257.

Respectfully submitted,

  
\_\_\_\_\_  
Gregory H. Zayia  
Registration No. 48,059  
Agent for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200